

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MARCOS NUNEZ,

Petitioner,

10 Civ. 60 (JGK)

- against -

MEMORANDUM OPINION AND
ORDER

T. CONWAY,

Respondent.

JOHN G. KOELTL, District Judge:

The Court has received the attached correspondence from the petitioner, which it sends to the parties. The Order to which the petitioner appears to be referring directed the Government, not the petitioner, to send its opposition papers to the Court. The petitioner does not need to take any further action at this time.

The petitioner also requests that the Court appoint him counsel. However, from the papers provided, the Court cannot determine whether the necessary showing for appointment of counsel has been met. The Court of Appeals for the Second Circuit has articulated factors that should guide the Court's discretion to appoint counsel to represent an indigent civil litigant under 28 U.S.C. § 1915. See Hodge v. Police Officers, 802 F.2d 58, 61-62 (2d Cir. 1986); Jackson v. Moscicki, No. 99 Civ. 2427 (JGK), 2000 WL 511642, at *4 (S.D.N.Y. Apr. 27, 2000). For the Court to order the appointment of counsel, the

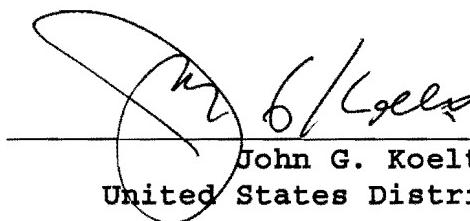
petitioner must, as a threshold matter, demonstrate that his claim has substance or a likelihood of success on the merits.

See Hodge, 802 F.2d at 60-61. Only then can the Court consider the other factors appropriate to determination of whether counsel should be appointed: "plaintiff's ability to obtain representation independently, and his ability to handle the case without assistance in the light of the required factual investigation, the complexity of the legal issues, and the need for expertly conducted cross-examination to test veracity."

Cooper v. A. Sargent Co., Inc., 877 F.2d 170, 172 (2d Cir. 1989). The plaintiff has not yet made such a showing. The plaintiff's application for the Court to appoint counsel is therefore denied without prejudice for failure to make the required showing at this time.

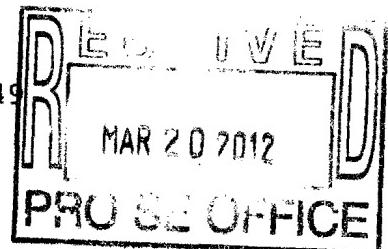
SO ORDERED.

Dated: New York, New York
March 25, 2012


John G. Koeltl
United States District Judge

Attica Correctional Facility
Mr. Marcos Nunez 07A2166
Box 149 - Attica NY 14011-0149

March 14, 2012



United States District Court
Hon. John G. Koeltl
United States Courthouse
500 Pearl Street
New York, NY 10007 - 1312

10 cv 0060 (JGK)

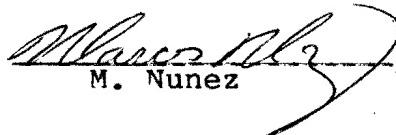
Re: Papers to be served

Dear Judge Keoltl

In response to your letter, all papers were served upon the respondent. Will you specify specifically what papers you are talking about.

Please be advised I am having trouble comprehending the legal issues in my case. My english is not good. Will you appoint me a spanish speaking attorney to assist me.

Respectfully,


M. Nunez